

## Episode 42

It was the first time in the history of the Council of Islamic Ideology that, due to the personal interest of President Zia-ul-Haq, the Council's recommendations would be immediately presented before the Cabinet, and after the Cabinet's approval, would immediately reach the relevant ministries for implementation. To this end, when draft laws were prepared by the Council in Urdu language, the Cabinet approved them in principle and forwarded them to the Ministry of Law, so that it could examine them from a legal perspective and thereafter translate them into English. We were of the opinion that our laws should be written in Urdu language--- for our laws to be written in a language which not even 0.1% of the country's population can understand is nothing more than intellectual slavery. However, the difficulty expressed was that since the language of the law had been English until now, a vast repository of legal verdicts was available in English language which served as references for interpreting law, and which our courts had become habituated to; if we were to change the language of the law at short notice, the courts would face difficulties. Though this argument was not strong enough and solutions could be found for this difficulty, at that point of time the main issue was to somehow change the laws to make them conform to Shariah. Insisting on the issue of language at that time could potentially jeopardize this main issue, so we grudgingly expressed our consent to get these laws translated into English. At the same time, all Council members were apprehensive that when the Law Ministry translated them into English, the translated version could end up with major changes in their intended meaning in some place. Since the staff of the Law Ministry were not familiar with the terminology and laws of Shariah, they could make inadvertent mistakes. When this concern was discussed in the Council, it was decided that the Ministry of Law should include the Council in drafting the laws in English, and that a committee comprising of members from the Ministry of Law and some members of the Council should be formed, which should undertake the work of drafting the laws in English with mutual consultation. Since I had prepared the initial Urdu draft of the laws, and this committee also required someone who was familiar with Islamic jurisprudence, the English language, as well as legal English, all members of the Council

unanimously entrusted this work to me. The Council's meetings ended with this decision, but since I was assigned this duty, I had to remain in Islamabad for an indefinite period.

The Additional Secretary of the Ministry of Law, respected Mir Muhammad Ali, was the Chief Draftsman at that time. He would arrive every morning with an assisting draftsman to carry out the work of drafting together with me. In those days, the office of the Council of Islamic Ideology was located in a small Bungalow at Margalla Road. Respected Muzaffar Ashraf was the Council's Secretary, who would also attend our meeting, and sometimes Justice Muhammad Afzal Cheema, the Chairman of the Council, would also participate. Respected Muhammad Ali was a jovial and experienced officer hailing from Hyderabad Deccan, and we developed a good rapport with each other.

The process that respected Muhammad Ali followed was that he would translate into English the Council's approved draft (which was basically prepared by me) article-by-article, and would read out the translation to me. I would examine it from a Fiqhi point of view, and would inform him if I had any doubts related to some words or their framing, and would also propose alternate translation. With regards to selection of words, sometimes lighthearted debate would also stir up between us, but may Allah Most High reward him, for with respect to interpreting Shariah laws and putting them into appropriate words, he would not only give weight to my opinion, rather would eventually praise it as well. And he would not forgo any translation I insisted upon, and would also acknowledge the deep attention to detail of our noble Islamic jurists (*fuqaha*). At the same time, I learnt much from him regarding law and its language, and my knowledge also increased while working with him.

One thing common between us was that he was also a *paan* enthusiast, and one day he had to pay for this "like-mindedness" with me. I would keep an extra *paan* with me in the *paan* box and would take care to offer him one from time to time. To this end, when we would be discussing our work for a long time, I would present a prepared *paan* to him, which he would happily accept. Since he was aware that our common liking for *paan* was something that made me happy and my store of *paans* contained his share at all times, after having tea he would sometimes take my *paan* box by himself and help himself to one. One time, I went out for some work for a few

minutes. When I returned, respected Muhammad Ali laughingly said: “Maulana! I have received a full punishment for stealing your *paans* today. It has torn my mouth apart!” I suddenly realized that a silver leaf containing only *chuna* (slaked lime) was placed in my *paan* box. The purpose of this was that if the *paan* were bitter some day, a bit of the *chuna* could be added to it to compensate for its bitterness. I came to know that respected Muhammad Ali mistook it for a prepared *paan* and put it in his mouth, and thereafter became engrossed in his work. He probably only realized his mistake when the *chuna* had done its work, the result being that his inner mouth developed ulcers, which perhaps lasted for several days. He would later recount this incident with great enjoyment.

Anyway! These meetings continued for weeks such that we would arrive at the Council’s office at nine in the morning and work continuously until Zuhr. We would then take a break in the afternoon and resume work after Asr until Isha, and sometimes continue after Isha till late night.

While other members of the Council had returned home after the few days of meetings, I had to stay in Islamabad for weeks on end due to this work. Whenever there was need to seek counsel, I would request for advice from various scholars. In those days, especially Hazrat Maulana Mufti Mahmood (may Allah’s mercy be upon him) would frequently stay in our respected friend Maulana Qari Saeed ur-Rahman’s (may Allah’s mercy be upon him) Madrasa Jamia-e-Islamia Kashmir Road, Rawalpindi. I would visit him whenever I got the opportunity and would seek his guidance on various Fiqhi issues.

I was not used to staying outside Karachi for so long. This extended stay in Islamabad was thus quite difficult on me. The duties of teaching and Fatwa that Darul Uloom had assigned to me were also quite badly affected due to my stay in Islamabad, and I was also deprived of the intellectual and spiritual peace I used acquire from sitting alone and writing.

Initially, accommodation for members of the Council was arranged in Government Hostel, which had been constructed for Members of the Assembly. Since members of the Council of Islamic Ideology had an official position equal to a member of the Assembly, they were also granted rights to stay at the Government Hostel at a rent, and to buy food from its restaurant. The late

respected Chaudhary Afzal had established a commercial rest house in a bungalow at F-6/3, where rooms could be taken up at a rent. The Council's management later arranged our accommodation in this rest house, which was called Chaudhary Afzal Accommodator. One benefit of staying here was that it offered a homely atmosphere. Respected Chaudhary Afzal was a very friendly and hospitable man and we developed homelike relations. The rest house also had a chef who could be asked to cook whatever we wanted, and it was also cheaper. We would receive air fare from the government for one PIA economy class return plane ticket from Karachi to Islamabad as well as daily allowance for our accommodation and food, which would suffice for these. Besides these, we would also receive one thousand rupees as honorarium for one meeting of the Council (which would normally continue for one week at that time). And if a member had to stay beyond this meeting, for example as I had to stay for work with the Ministry of Law for a long duration, neither did I ask for any additional honorarium for this stay nor did the government provide it on its own accord. However, the daily expenses for accommodation and food that I had to pay were received as daily allowance. Perhaps "received" is not the right word, for their reimbursement involved a lengthy procedure which would take months for the amount to reach us. As a result, we would have to bear all these expenses from our own pockets at first. We would thus receive our dues from previous months after having purchased several plane tickets and paying accommodation and food expenses from our own pocket for months. And when this amount would finally reach us after going through all the red tape, we would already have paid the expenses of several further months. In this manner, the Council was always in debt to us. It never happened that we receive the expenses before beginning our journey or immediately after it. However, since it included an honorarium of one thousand rupees, overall we would be able to save some amount. For storing this saving, I had opened a bank account in Islamabad itself. The real reason for this, besides the convenience of depositing and withdrawing cash, was that I did not want to include the income received from the Council in my daily life, because I remembered this action of my respected father (may Allah's mercy be upon him) that if he ever worked for a governmental department, he would do so for purely religious needs. And whenever he would feel a deviation from his objective, he would be ever-ready to resign immediately. He would therefore maintain his daily expenses at the same level as before the

governmental income. I therefore did not include the income from the Council, which was not much for those times anyway, in my daily life, and would instead restrict them to my expenses in Islamabad. This is because besides my accommodation and food expenses, sometimes some guest would also reside with me. Also, on some weekends on Thursdays or Fridays, I would sometimes travel to Akora Khattak for two days to visit my friend Hazrat Maulana Samee ul-Haq, and my mind fatigued from dry legal issues would be rejuvenated through his exuberant personality, and at other times would travel to Lahore and find solace under the shade of the graces of my *Chhoti Aapa*, whose mention I have made numerous times before. She would feed me my favourite dishes and recite poetry to me. I would also recite some of my new poetry to her at which she would provide me with encouraging words. Sometimes I would remind her of our childhood days. In this manner, after spending two days in the cool shade of her companionship, I would return to Islamabad refreshed. When many days would pass by since meeting her, I would invite her to Islamabad by phone and would book a room for her adjacent to my residence. She would sometimes arrive with my late brother-in-law and sometimes with a son. She was aware that I partook of food from governmental accommodations only because I did not have any other options. Roosters are frequently served there, which, in my opinion, are more worthy of being used for waking people up at dawn and providing eggs than being slaughtered for their meat. As for goat meat, only a personal well-wisher can possess the disposition required for cooking it right; the hands which cook for earning money sometimes do not possess the same taste as a loving well-wisher. All this is from the time when household tasks were considered to be the true skill of a lady, and their familial duties were limited to this. Now that women are leaving their homes, the tendency to eat out has increased in people.

Anyway! *Chhoti Aapa* was aware that I ate little in Islamabad, and that I really liked her cooking, especially dishes of *qeema* (minced meat) and drumstick, as well as green-chilly *achar* and spicy rice. She would thus cook these dishes for me. Sometimes when she could not come by herself, she would send these dishes through someone who was visiting Islamabad.

Later, Sindh House was built for officers belonging to the Sindh province. At that time, it was the most beautiful, comfortable and scenic residence in Islamabad, and its garden provided a

fantastic view of Islamabad. Nonetheless, staying there after work would feel like being in solitary prison. And when it would be time for me to return to Karachi, I would feel like a prisoner being released.

Besides the Hudood Laws, the Council formed a panel of experts in Economics who were responsible for drafting recommendations for developing a system for collection and disbursement of Zakat as well as purging the economy of interest. This panel was led by a member of the Council, the late respected Dr Ziauddin, who was also the Deputy Governor of the State Bank of Pakistan at that time. He was a religious-minded person and we had developed a good intellectual rapport. He had included renowned economic experts in this panel, and the first report it presented before the Council was that related to Zakat.

The late Dr Ziauddin possessed a heartfelt passion in his heart that the system of Zakat in the country should be such that it helps eradicate poverty. While this sentiment was admirable, in view of the widespread mismanagement and financial misdeeds we had been observing in the country for years, we feared that if the collection and disbursement of Zakat fell in the hands of the government, in view of the widespread financial misconducts across the country, the chances of this system failing and people's Zakat being wasted was higher. If this bridge of wealth falls under the control of government officers, what havoc would they wreak on it? I presented these apprehensions in the Council and expressed the opinion that haste should not be made in implementing a system of Zakat at a government level, rather the first step should be to purge the government administration of mismanagement. After this, when confidence is achieved for such an important pillar of Islam as Zakat to be disbursed in a transparent and reliable manner, at that time certainly the system of Zakat would produce its correct results. Until that time, safety lied in letting the people search for deserving recipients of Zakat by themselves, as they were already doing.

I stated this point several times in various different ways, and the Council's scholar members also supported this. However, Dr Ziauddin and Justice Afzal Cheema were insistent that this important pillar of Islam's economic teachings should be implemented at a government level as soon as possible. With respect to our arguments, they were under the misunderstanding that since we

belonged to religious Madrasas and people gave a large amount of their Zakat to religious madrasas, we perhaps feared that as a result of the government handling Zakat, Madrasas would not receive it. As a result of this, at one point the late respected Justice Afzal Cheema said: “Maulana! Rest assured that religious Madrasas will also have an ample allocation in the scheme of Zakat we are rolling out.”

At this I submitted: “We are not at all against this idea because of fear that religious Madrasas would become deprived of Zakat. Alhamdulillah, these religious Madrasas are running with reliance on Allah alone, independent of any government benefaction. And supposing the government takes up the responsibility of collecting and disbursing Zakat upon itself, we will not take Zakat from the government. It is hoped from Allah’s mercy that similar to how He has taken care of them until now, without any fixed source of income, so will He continue in the future as well. Furthermore, we also deem it inappropriate for religious Madrasas to become a hindrance for the implementation of a system of Zakat on a national level, on the condition that we are satisfied that the collection as well as disbursement of Zakat will take place in a correct manner. However, our greatest objection is that this appears difficult in present circumstances.”

Nonetheless, a majority of the Council members replied to this objection with the argument: “We will design this scheme in such a manner that government officers will have the least involvement in their collection and disbursement.” To this end, such individuals were designated Chief Managers for Zakat at the federal and provincial levels as held positive fame among the people. Furthermore, selection of Zakat committee members on district levels was proposed to be done through local mosques. It was also proposed to keep Zakat funds separate from common government treasury, and their disbursement was entrusted to Zakat committees comprising of common people.

When this much had been decided, discussions regarding collection and disbursement of Zakat ensued. Dr Ziauddin’s panel had proposed for Zakat to be collected from bank accounts, but there was a possibility that people could withdraw their wealth one day before the Zakat collection date. To prevent this, they proposed that instead of deducting Zakat based on the account

balance on the date of Zakat collection, Zakat should be deducted based on the average account balance over the past one year.

With respect to collecting Zakat from bank accounts, several issues are worth examining from a Shariah point of view. Firstly, the Shariah grants the government the right to collect Zakat from *amwaal zaahirah* but not *amwaal baatinah*. Can bank accounts be considered *amwaal zaahirah* from which the government could collect Zakat? Secondly, for Zakat to become obligatory from a Shariah point of view, one year has to pass over the amount of *nisab*. For the money in bank accounts, how could it be ascertained that the amount is the property of the account holder, and that a year had passed since they possessed *nisab* amount? Thirdly, could the proposal of deducting Zakat based on an average of one year's account balance be acceptable from a Shariah point of view?

Among these, regarding the first point (i.e. to consider bank accounts as *amwaal zaahirah*) I had heard from my respected father (may Allah's mercy be upon him) that in current circumstances, they should be considered *amwaal zaahirah*. Furthermore, Hazrat Maulana Zafar Ahmad Thanvi (may Allah's mercy be upon him) was also of the same opinion. Therefore, there were no real objections to accepting this. As for a year passing on the wealth and ascertaining whether the account holder possessed *nisab* amount or not, it was decided that whichever account holder declared himself not being in possession of *nisab* amount or that Zakat was not obligated on him for any reason, he would be exempted from the deduction of Zakat. However, regarding the third issue, i.e. that Zakat should be deducted based on the average yearly account balance, there was no basis for this from Shariah point of view. We thus rejected this point. Lengthy debates ensued on this topic. In the end, the then-Finance Minister, late Ghulam Ishaq Khan, convened a gathering in which he presented several arguments in support of deducting Zakat based on average yearly account balance. However, in the end our position was accepted and this matter was thus resolved.

In this manner, eventually two kinds of laws were prepared for implementation. Justice Samdani was the Secretary of the Ministry of Law at that time. He reviewed those laws with great diligence, and also included me in the review sessions. I had been staying in Islamabad's Sindh



House for a long time to finalize those laws. Here, joint efforts were made to fine tune them. I would review the laws even after the meetings, and one or two times even called Justice Samdani on phone to ask him to change some wording. At long last, these drafts were presented before the entire Cabinet for review. Thereafter President General Zia-ul-Haq called a meeting of the Cabinet, in which besides Justice Afzal Cheema and Justice Samdani, Maulana Zafar Ahmad Ansari, Mufti Muhammad Husain Naeemi, Mufti Sayahuddin (may Allah's mercy be upon them) and I were also invited. During the Cabinet's sessions, each article of the laws was discussed in detail over two days, and ultimately the respected President approved them and announced for Hudood Ordinance and Zakat Ordinance to be formally implemented on the 12<sup>th</sup> of Rabi ul-Awwal, which according to the famous opinion is the blessed date of birth of the Holy Prophet (ﷺ).

After the Constitutional change declaring Qadiyanism to be a non-Muslim minority, this was the first time some laws were being implemented based on the Shariah. An aura of festivity and celebration was in the air. After staying away from home for several weeks and toiling day and night, it felt as if a traveler of a long journey had reached an intermediate milestone and were resting. A huge load came off my mind that day and I felt quite light. My elder brother Hazrat Mufti Muhammad Rafi Usmani (may his shade be extended) had also arrived in Islamabad for some work, and shared in the happiness of that day. For relaxation, we went to Shakarparian hill in the evening. From there, a panoramic view of the entire landscape of Islamabad loomed before us. Government offices were showering in lights, and it felt as if this was the beginning of Islamabad really turning into Islam-abad (City of Islam), for some important laws of Shariah were being implemented in it and doors of possibility had opened up for further work along this line. This is because the way President General Zia-ul-Haq Shaheed was cooperating with the Council to the fullest gave hope that implementation of these laws was only a first step, and that InshaAllah the drafting and implementation of more laws would follow in similar manner. I remember the bliss felt that day like a pleasant dream even today.